

Federal Maritime Commission

§ 502.69

(2) Petitions for the issuance thereof shall: state clearly and concisely the controversy or uncertainty; name the persons and cite the statutory authority involved; include a complete statement of the facts and grounds prompting the petition, together with full disclosure of petitioner's interest; be served upon all parties named therein; and conform to the requirements of subpart H of this part.

(3) Petitions shall be accompanied by remittance of a \$241 filing fee.

(b) Petitions under this section shall be limited to matters involving conduct or activity regulated by the Commission under statutes administered by the Commission. The procedures of this section shall be invoked solely for the purpose of obtaining declaratory rulings which will allow persons to act without peril upon their own view. Controversies involving an allegation of violation by another person of statutes administered by the Commission, for which coercive rulings such as payment of reparation or cease and desist orders are sought, are not proper subjects of petitions under this section. Such matters must be adjudicated either by filing of a complaint under section 11 of the Shipping Act of 1984 (46 U.S.C. 41301-41302, 41305-41307(a)) and § 502.62, or by filing of a petition for investigation under § 502.69.

(c) Petitions under this section shall be accompanied by the complete factual and legal presentation of petitioner as to the desired resolution of the controversy or uncertainty, or a detailed explanation why such can only be developed through discovery or evidentiary hearing.

(d) Replies to the petition shall contain the complete factual and legal presentation of the replying party as to the desired resolution, or a detailed explanation why such can only be developed through discovery or evidentiary hearing. Replies shall conform to the requirements of § 502.74 and shall be served pursuant to subpart H of this part.

(e) No additional submissions will be permitted unless ordered or requested by the Commission or the presiding officer. If discovery or evidentiary hearing on the petition is deemed necessary by the parties, such must be requested

in the petition or replies. Requests shall state in detail the facts to be developed, their relevance to the issues, and why discovery or hearing procedures are necessary to develop such facts.

(f)(1) A notice of filing of any petition which meets the requirements of this section shall be published in the FEDERAL REGISTER. The notice will indicate the time for filing of replies to the petition. If the controversy or uncertainty is one of general public interest, and not limited to specifically named persons, opportunity for reply will be given to all interested persons including the Commission's Bureau of Enforcement.

(2) In the case of petitions involving a matter limited to specifically named persons, participation by persons not named therein will be permitted only upon grant of intervention by the Commission pursuant to § 502.72.

(3) Petitions for leave to intervene shall be submitted on or before the reply date and shall be accompanied by intervenor's complete reply including its factual and legal presentation in the matter.

(g) Petitions for declaratory order which conform to the requirements of this section will be referred to a formal docket. Referral to a formal docket is not to be construed as the exercise by the Commission of its discretion to issue an order on the merits of the petition. [Rule 68.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 59 FR 59170, Nov. 16, 1994; 61 FR 51233, Oct. 1, 1996; 63 FR 50535, Sept. 22, 1998; 65 FR 81759, Dec. 27, 2000; 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005; 74 FR 50716, Oct. 1, 2009]

§ 502.69 Petitions—General and fee.

(a) Except when submitted in connection with a formal proceeding, all claims for relief or other affirmative action by the Commission, including appeals from Commission staff action, except as otherwise provided in this part, shall be by written petition, which shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon and the relief sought, shall cite by appropriate reference the statutory provisions or other authority relied

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upon for relief, shall be served upon all parties named therein, and shall conform otherwise to the requirements of subpart H of this part. Replies thereto shall conform to the requirements of § 502.74.

(b) Petitions shall be accompanied by remittance of a \$241 filing fee. [Rule 69.]

[49 FR 44369, Nov. 6, 1984, as amended at 52 FR 4143, Feb. 10, 1987; 59 FR 59170, Nov. 16, 1994; 63 FR 50535, Sept. 22, 1998; 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005]

§ 502.70 Amendments or supplements to pleadings.

(a) Amendments or supplements to any pleadings will be permitted or rejected, either in the discretion of the Commission if the case has not been assigned to a presiding officer for hearing, or otherwise, in the discretion of the officer designated to conduct the hearing, except that after a case is assigned for hearing, no amendment shall be allowed which would broaden the issues, without opportunity to reply to such amended pleading and to prepare for the broadened issues. The presiding officer may direct a party to state its case more fully and in more detail by way of amendment.

(b) A response to an amended pleading must be filed and served in conformity with the requirements of subpart H of this part and § 502.74, unless the Commission or the presiding officer directs otherwise. Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading, except that the presiding officer may authorize the service of amended complaints directly by the parties rather than by the Secretary of the Commission.

(c) Whenever by the rules in this part a pleading is required to be verified, the amendment or supplement shall also be verified. [Rule 70.]

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 27210, May 7, 1993]

§ 502.71 Motions for more definite statement.

If a pleading (including a complaint or counter-complaint filed pursuant to § 502.62 or § 502.64) to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reason-

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ably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall be filed within 15 days of the pleading and shall point out the defects complained of and the details desired. If the motion is granted and the order of the presiding officer is not obeyed within 10 days after service of the order or within such time as the presiding officer may fix, the presiding officer may strike the pleading to which the motion was directed or make such order as is deemed just. If the motion is disallowed, the time for responding to the pleading shall be extended to a date 10 days after service of the notice of disallowance. [Rule 71.]

[58 FR 27210, May 7, 1993, as amended at 64 FR 7808, Feb. 17, 1999]

§ 502.72 Petition for leave to intervene.

(a) A petition for leave to intervene may be filed in any proceeding and shall be served on existing parties by the petitioner pursuant to subpart H of this part. An additional fifteen (15) copies of the petition shall be filed with the Secretary for the use of the Commission. Upon request, the Commission will furnish a service list to any member of the public pursuant to part 503 of this chapter. The petition shall set forth the grounds for the proposed intervention and the interest and position of the petitioner in the proceeding and shall comply with the other applicable provisions of subpart H of this part, and if affirmative relief is sought, the basis for such relief. Such petition shall also indicate the nature and extent of the participation sought, e.g., the use of discovery, presentation of evidence and examination of witnesses.

(b)(1) Petitions for leave to intervene as a matter of right will only be granted upon a clear and convincing showing that:

(i) The petitioner has a substantial interest relating to the matter which is the subject of the proceeding warranting intervention; and

(ii) The proceeding may, as a practical matter, materially affect the petitioner's interest; and

(iii) The interest is not adequately represented by existing parties to the proceeding.